



NUCLEAR ENERGY INSTITUTE

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Dockets Management System
U.S. Department of Transportation
Research and Special Programs Administration
Room PL 401
400 Seventh Street, SW
Washington, DC 20590-0001

REFERENCE: Request for Comments on Proposed Rule “Harmonization with the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization’s Technical Instructions” 49 CFR Parts 171, 172, 173, 175, 176, 178 and 180. Docket No. RSPA–2002–13658 (HM–215E) RIN 2137–AD41, 67 *Fed. Reg.* 72034 (December 3, 2002)

Dear Sir or Madam:

The Nuclear Energy Institute (NEI),¹ is submitting the following comments on the proposed rule “Harmonization with the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization’s Technical Instructions,” that seeks to amend 49 CFR Parts 171, 172, 173, 175, 176, 178, and 180 and make Department of Transportation (DOT) regulations governing the shipments of hazardous materials, which include radioactive materials compatible with international regulations.

NEI supports the overall intent of the proposed modifications. The nuclear industry is international and the ability to move hazardous materials and specifically radioactive materials among countries based on a common set of regulations is very important to the health of the industry. We support the efforts of the DOT in this effort. Even though we endorse the proposed rule in concept we do have a concern with the requirements for radioactive materials.

¹ NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI’s members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry.

This rulemaking proposes to amend 49 CFR 172.202(a)(5) by changing the requirement for stating the total quantity of hazardous material on shipping papers from "total quantity (by net or gross mass, capacity, or as otherwise appropriate), including the unit measurement..." to "total quantity (by volume or mass, as appropriate)." Removal of the words "as...otherwise" implies that shippers can no longer use other more relevant units of radioactivity to account for the quantity of radioactive materials in a consignment.

We are concerned that this proposal will have a negative impact on the safety of shipments containing radioactive materials. Historically, quantities of radioactive materials have been included on shipping papers in the units of measure of radioactivity. Since the units of radioactivity are far more meaningful to the recipients of these shipments and to those who may have to respond to incidents involving these materials, limiting the expression of quantity to units of mass or volume for radioactive materials would result in confusion and misunderstanding of the nature of the contents of the shipment. For example, a few mL or grams of radioactive material may contain TBq of radioactivity. Reporting the quantity in the units of volume or mass would not be indicative of the quantity of radioactivity involved or the potential hazard.

The enhancements to §172.101 Hazardous Materials Table, in which the number of specific classifications of radioactive material by package type, low-specific activity or surface-contaminated object class is doubled and in which the Special Provisions (Column 7) and Packaging Exceptions (Column 8) information is presented in far greater detail, are significant improvements. Included on this table are references to a new §172.102 Special Provision A56 which specifies conditions for the air shipment of radioactive material. NEI believes these enhancements and clarifications will benefit transporters of Class 7 materials.

We would be pleased to discuss these comments with the DOT and to respond to questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Felix M. Killar, Jr.", written in a cursive style.

Felix M. Killar, Jr.

c: NEI Transportation Task Force Members